***United States Court of Appeals***

***for the Second Circuit***


# BRIEF FOR APPELLEE

ORIGINAL

# 77-7505

# United States Court of Appeals
## FOR THE SECOND CIRCUIT

EMPRESA PUBLICA DE COMERCIALIZACION DE HARINA Y ACEITE DE PESCADO and EMPRESA PUBLICA DE SERVICIOS AGROPECUARIOS,

*Plaintiffs-Appellants,*

*against*

BERGEN SHIPPING CO., LTD.
BREDA SHIPPING CO., LTD.,

*Defendants,*

*and*

CONTINENTAL GRAIN COMPANY and CONTINENTAL GRAIN EXPORT CORPORATION,

*Defendants-Appellees.*

## BRIEF ON BEHALF OF DEFENDANT-APPELLEE CONTINENTAL GRAIN EXPORT CORPORATION


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BERGEN SHIPPING CO., LTD.
BREDA SHIPPING CO., LTD.,

*Defendants,*

*and*

CONTINENTAL GRAIN COMPANY and CONTINENTAL GRAIN EXPORT CORPORATION,

*Defendants-Appellees.*

## BRIEF ON BEHALF OF DEFENDANT-APPELLEE CONTINENTAL GRAIN EXPORT CORPORATION

### Preliminary Statement

Plaintiffs-Appellants brought this appeal seeking a reversal of an order entered in the United States District Court, Southern District of New York, staying their action against Continental Grain Export Corporation (hereinafter "Export") pending arbitration of the underlying dispute in London. Specifically, plaintiffs-appellants seek to convince this Court that the Hon. Richard Owen erred in his determination that the contract between plaintiffs and defendant Export incorporated an arbitration clause.

Defendant-Appellee Export opposes this appeal on the grounds that Judge Owen made a factual determination that the contract incorporated the arbitration provisions of the Grain Feed and Trade Association (hereinafter "GAFTA"). Having made that determination the District Court properly concluded that plaintiffs-appellants were bound to arbitrate all disputes arising out of the contract. The Court rejected plaintiffs' contention that a Peruvian forum selection clause contained in the contract constituted a bar to the incorporation of the GAFTA arbitration clause, especially in light of plaintiffs' own disregard of that clause by instituting this action in the Southern District of New York.

## Issues Presented for Review

Where the parties to a contract have agreed to incorporate the terms and conditions of GAFTA No. 30 and where those provisions include an agreement to arbitrate all disputes, does the existence of a clause in which the parties agree to submit themselves to the courts of Peru act as a bar to the incorporation of the arbitration provisions?

Defendant-Appellee Export submits that the agreement to arbitrate is plain and the contractual provision is consistent with and does not negate that agreement.

## Statement of the Case

The underlying dispute which forms the basis of this lawsuit is plaintiffs-appellants' allegation that Export breached its contract of sale by failing to deliver a shipment of corn in conformity with the contractual description. [R. 6a-8a][1] Additionally, plaintiffs-appellants al-

[1] All references to numbers in brackets and preceded by the letter "R" refer to pages in the Record on Appeal.

leged that Export also breached its contract by failing to secure a seaworthy vessel and improperly negotiating the bills of lading under the letter of credit. [R. 8a-10a]

Plaintiffs-Appellants EPSA[2] and its successor EPCHAP[3] are public corporations wholly owned by the Peruvian Government and are charged with responsibilty of purchasing, importing and distributing agricultural products. [R. 4a-6a] They are not neophytes in the grain trade and, in fact, EPSA has entered into numerous prior contracts with Export which incorporated the rules of the grain trade association applicable to that particular sale, including its arbitration provision. [R. 90a-93a] By reason of such prior dealings plaintiffs-appellants were aware of the arbitration provision contained in those rules and, no allegation has ever been made to the contrary. [R. 93a]

The contract in dispute was entered into on July 4, 1974 between plaintiffs-appellants EPSA and defendant-appellee Export and covered the sale of 2,500 long tons No. 3 yellow corn. The contract was made pursuant to an offer by Export's agent and the terms of that offer were specifically made a part of the contract.[4]

Originally, the contract provided for a sale on F.O.B. terms and, in accordance with usual custom, the terms of the North American Export Grain Association (NAEGA) Form No. 2 were incorporated.[5] Thereafter, the terms of sale changed to C. & F. conditions and this change was commemorated by a rider to the contract executed July 8,

---

[2] Empresa Publica de Servicios Agropecuarios.

[3] Empresa Publica de Comercializacion de Harina y Aceite de Pescado.

[4] The incorporation reads as follows [R. 21a]:

"SIXTH CLAUSE: The offer of sale is also a part of this Contract."

[5] NAEGA No. 2 was incorporated in the offer of sale under the heading of "Other Conditions" [R. 23a].

1974, which read:

> "In consideration of the fact that North American Export Grain Association (NAEGA No. 2) covers the acquisitions on the basis F.O.B. and the sale has been made on the basis of 'Cost and Freight', it is established under mutual accord that other conditions not specified in our contract will be governed by the clauses stipulated in Contract Grain and Feed Trade Association No. 30 (GAFTA No. 30), specific for purchases on the basis of 'Cost and Freight'." [R. 22a]

Both NAEGA No. 2 and GAFTA No. 30 provide for arbitration, albeit in different locations. [R. 92a] The arbitration clause in GAFTA No. 30 reads in relevant part as follows:

> "(31) ARBITRATION—
>
> (a) Any dispute arising out of or under this contract shall be settled by arbitration in London in accordance with the Arbitration Rules of the Grain and Feed Trade Association Limited, No. 125, in force at the date of the contract, such Rules forming part of this contract and of which both parties hereto shall be deemed to be cognizant.
>
> (b) Neither party hereto, nor any persons claiming under either of them, shall bring any action or other legal proceeding against the other of them in respect of any such dispute until such dispute shall first have been heard and determined by the arbitrators, umpire or Board of Appeal, as the case may be, in accordance with the Arbitration Rules and it is expressly agreed and declared that the obtaining of an award from the arbitrators, umpire or Board of Appeals, as the case may be, shall be a condition precedent to the right of either party hereto or of any person claiming under either of them to bring any action or other legal proceedings against the other of them in respect of any dispute." [R. 25a-1]

It was on these facts that Judge Owen properly granted Export's motion to stay this litigation pending arbitration.

Appellants make much of the fact that the GAFTA forms annexed to the moving papers were issued subsequent to the date of the contract. However, this oversight was corrected by defendant-appellee in its reply papers wherein it annexed the GAFTA forms in existence as of the date of the contract. [R. 84a-85a]

By comparing the two GAFTA Forms it is readily obvious that both contain the identical arbitration language. Any implication by appellants that the arbitration provisions of GAFTA No. 30 did not exist at the time of the contract is patently incorrect.

Appellants also incorrectly state that the Southern District of New York was the only jurisdiction in which this suit could have been brought against all parties. This issue was not raised in the District Court and the Record on Appeal contains no evidence counteracting the statement. Therefore, appellee attaches as Addendum A a copy of the Letter of Guarantee issued by the carrier's P & I Club as well as a demurrage statement, both of which clearly show that appellants sought to arrest the vessel while she was still in Peruvian waters. Thus, plaintiffs could have brought all parties before the court in Peru.

## The Contract Between the Parties Clearly Evidences an Intent to Arbitrate All Disputes Which Are the Subject of Appellants' Action Against Export

Appellee fully agrees with Appellants' contention that the issue of arbitrability is a question for the court to determine from the contract entered into by the parties. *Drake Bakeries Inc.* v. *Local 50,* 82 S. Ct. 1346, 370 U.S. 254, 8 L.Ed. 2d 474 (1962); *District 2, Marine Eng. Ben. Ass'n* v. *Falcon Carriers Inc.,* 374 F.Supp. 1342 (S.D.N.Y. 1974); *Lawson Fabrics Inc.* v. *Akzona Incorporated,* 355 F. Supp.

1146 (S.D.N.Y. 1973), aff'd 486 F2d 1394 (2nd Cir. 1973). In all three cases cited by appellants the Court held the parties to their agreement to arbitrate the dispute despite arguments that the parties did not intend to arbitrate. In fact, in reviewing the arbitration clause in *District 2, supra,* at 1343, the Court restated the governing rule as established by the Supreme Court:

> "* * * Unless parties expressly exclude a matter from arbitration, the court must conclude that they intended to submit it to the arbitrator."

The contract here clearly evidences the parties' agreement to arbitrate their disputes. The clause contained in GAFTA No. 30 provides for arbitration of "any dispute arising out of or under this contract. * * *". This language is certainly sufficiently broad to include both plaintiffs' claim for non-conforming goods and its claim for selecting an improper vessel. The fact that a cause of action is couched in terms of tort rather than contract does not detract from its arbitrability because the obligation allegedly breached was established by the contract containing the arbitration clause. *Lawson Fabrics Inc.* v. *Akzona Incorporated, supra, Almacenes Fernandez, S.A.* v. *Golodetz,* 148 Fed. 2nd 625 (2nd Cir. 1945); *Altshul Stern & Co., Inc.* v. *Mitsui Bussan Kaisha, Ltd.,* 385 F2d 158 (2nd Cir. 1967); *Giuffre* v. *The Magdalena Vinnen,* 152 F. Supp. 123 (E.D.N.Y. 1957). For a recent State Court decision arriving at the same result see *Paver & Wildfoerster* v. *Catholic High School Association,* 38 N.Y. 2d 669, 345 N.E. 2d 565, 382 N.Y.S. 2d 22 (1976).

In *Almacenes, supra,* this Court compelled arbitration on facts virtually identical to the ones here alleged. In rejecting plaintiff's contention that a cause of action for fraudulently issuing a bill of lading was not encompassed by the arbitration clause, the Court stated at page 628:

> "What is alleged to have been fraudulent is the manner in which the seller broke the contracts by failing

> to ship merchantable caustic soda in compliance with them; by obtaining payment on false documents fraudulently issued; and by fraudulently inducing the plaintiff to acept [sic] the soda when it arrived in Mexico. It is thus clearly shown that the controversy between these parties has arisen out of the manner in which the seller undertook to perform the contracts after they have been made. * * * Whether the attempted performance by the seller was in accordance with the contracts is an issue between those parties clearly arising out of the contract."

A clause in which the parties agree to arbitrate all disputes binds EPSA, as signatory, as well as EPCHAP, as its successor. *Lowry* v. *S.S. Lemoine D'Iberville,* 253 F. Supp. 396 (S.D.N.Y. 1966); *Midland Tar Distillers Inc.* v. *M/T LOTOS,* 362 F.Supp. 1311 (S.D.N.Y. 1973); *Compania Espanola de Petroleos S.A.* v. *Nereus Shipping S.A.,* 385 F.Supp. 1155 (S.D.N.Y. 1974).

Appellants do not seriously contest that the GAFTA No. 30 arbitration clause is broad enough to cover this dispute between all parties, but rather contend that the clause itself cannot be deemed an integral part of this contract.

The incorporation of an arbitration clause by a reference makes that arbitration clause an integral part of the contract. *Son Shipping Co. Inc.* v. *DeFosse and Tanghe,* 199 F2d 687 (2nd Cir. 1952); *Lowry* v. *S.S. Lemoine D'Iberville, supra,* at 398; *Marine Transit Corp.* v. *Dreyfus,* 284 U.S. 263 (1932); *Wilson & Co.* v. *Fremont Coke & Metal Co.,* 77 F. Supp. 364 (D.C. Neb. 1948). No special language is required to effect such incorporation, so long as the language used fairly advises the party to the contract of the incorporation. As the Court stated in *Lowry, supra,* at 398:

> "It is not necessary, in order to incorporate by reference the terms of another document, that such

> purpose be stated in *haec verba* or that any particular language be used * * * and it is settled doctrine that a reference in a contract to another writing, sufficiently described, incorporates that writing. (citation omitted.)"

In *Wilson & Co.* v. *Fremont Coke & Metal Co., supra,* the contract between the parties referred to the "Rules—National Soybean Processors Association". This reference, the Court properly concluded, was sufficient to incorporate the arbitration provisions of those rules. As here, the plaintiff in *Wilson, supra,* urged that the arbitration provisions of those rules could only be incorporated if the contract specifically contained a statement to that effect. The Court took the contrary approach and held at 373:

> ". . . If any of the rules were not to be operative their omission ought, indeed, to have been expressly incorporated into the memorandum by appropriate language. But having adopted by adequate descriptive language the entire group of rules, the addition of such a phrase as, 'and we intend to include Rule 115,' would appear to be the ultimate in supererogation."

If appellants here had desired not to incorporate the arbitration provisions of GAFTA No. 30 (or NAEGA No. 2 under the original F.O.B. contract) then this exclusion should have been clearly stated. *Carpenters District Council of Denver and Vicinity* v. *Brady Corporation,* 513 F2d 1 (10th Cir. 1975); *District 2, Marine Eng. Ben. Ass'n* v. *Falcon Carriers Inc.,* 374 F. Supp. 1342 (S.D.N.Y. 1974). A forum selection clause which is vague and can be read consistently with the arbitration provision, does not manifest such contrary intent. It is not the "forceful evidence" as described in *Carpenters, supra,* at page 3:

> "We hold applicable the rule that where an exclusion-from-arbitration clause is vague, and the arbitration clause is broad, only the most forceful evidence of a

> purpose to exclude the claim from arbitration will deter a court from directing the dispute to arbitration."

The courts will liberally construe an agreement in favor of arbitration. *Robert Lawrence Company* v. *Devonshire Fabrics Inc.*, 271 F2d 402 (2nd Cir. 1959), appeal dismissed pursuant to stipulation, 364 US 801; *Lawson Fabrics Inc.* v. *Akzona Incorporated, supra; Lowry & Co.* v. *S.S. Lemoine D'Iberville, supra; Nolde Brothers Inc.* v. *Local No. 358 Bakery and Confectionery Workers Union* —— U.S. ——, Slip Opinion, Docket No. 75-1198 decided March 7, 1977. If the arbitration provisions can be read consistent with the entire contract, the Court will favor such construction and hold the dispute arbitrable. In *Lowry, supra,* Judge Weinfeld was confronted with two conflicting arbitration clauses, but held that this conflict did not negate an intent to arbitrate the dispute since both clauses could be given effect.

Since the original contract contained a provision for arbitrating any and all disputes (under NAEGA Form No. 2 which was incorporated in the F.O.B. sale), the subsequent addendum merely replaced the arbitration provisions of NAEGA No. 2 by those of GAFTA No. 30. The inclusion of a forum selection clause did not eliminate those arbitration provisions. At most, that clause provided for a forum to enforce any arbitration award or could well have been included to avoid subjecting plaintiffs to a jurisdiction which did not recognize sovereign immunity as a defense. In any event, appellants as the drafters of that clause themselves recognized that it did not create an exclusive tribunal for the resolution of disputes since the clause specifically excepted "any intervention or claim of diplomatic nature." If, as appellants contend, the forum selection clause were an exclusive remedy, then the express waiver of diplomatic intervention would have been mere surplusage. There is nothing in the language

of that clause which excepts or waives arbitration as a remedy for the determination of disputes.

When an arbitration clause, as here, is extremely broad and the exclusion from arbtration, if any, is vague, the Court will not be deterred from directing the dispute to arbitration. *Carpenters District Council of Denver and Vicinity* v. *Brady Corporation, supra; Robert Laurence Company* v. *Devonshire Fabrics Inc., supra; Metro Industrial Operating Corp* v. *Terminal Construction Co.*, 287 F2d 382 (2nd Cir. 1961).

The attempt by appellants to introduce affidavits unilaterally interpreting the clause as an intent to exclude arbitration is improper, *Wilson & Co.* v. *Fremont Coke & Metal Co., supra.* In rejecting a similar attempt the Court in *Wilson, supra*, at 372 stated:

> "The plaintiff argues that the parties should be held, by their adoption of the association's rules, to have submitted only to those of the rules which have to do with standards of quality, price, unit of weight terms, time of shipment, weights, routing, tank cars, etc. (except as controlled in the memorandum), but not to the rule requiring arbitration. Qua auctoritate? The court may not lend its sanction to such post contractual eclecticism, especially since it is invoked unilaterally."

The parties may agree to a forum in which to litigate those aspects of the dispute, such as enforcement of awards, which are not arbitrable. *Monte* v. *Southern Delaware County Authority*, 335 F2d 855 (3rd Cir. 1964). That, and nothing more, is precisely what the contract between the parties did, although appellants have waived even that limited effect by instituting the action in the Southern District of New York.

## CONCLUSION

**The District Court properly interpreted the contract and stayed this litigation pending arbitration and that Order should, in all respects, be affirmed.**

Respectfully submitted,

HILL, RIVKINS, CAREY, LOESBERG & O'BRIEN
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*Of Counsel*

ADDENDUM A

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NACBANK 3540304

OCTOBER 22, 1974

ATTENTION DOCTOR ARNALDO MENESES DIAZ

RE YUKONMART

WE CONFIRM THAT ASSOCIATION HAS ISSUED FOLLOWING LETTER WHICH HAS BEEN AGREED TO BY MR. ELLIS AND WHICH IS BEING HAND-DELIVERED TO HIM BY COURIER TODAY

QUOTE

EMPRESA PUBLICA DE SERVICIOS AGROPECUARIOS

AND ITS SUCCESSOR

CARE OF EMPRESA PUBLICA DE HARINA Y ACEITE

DE PESCADO

AV. 28 DE JULIO NO. 715

LIMA, PERU

M.V. YUKONMART

PHILADELPHIA/CALLAO

GENTLEMEN

*Addendum A*

IN CONSIDERATION OF YOUR REFRAINING FROM CAUSING THE ARREST OR ATTACHMENT OF THE ''YUKONMART'' OR ANY OTHER PROPERTY OF HER OWNERS, IN CONNECTION WITH YOUR CLAIM FOR ALLEGED DAMAGE TO CORN IN BULK CARRIED ON THE ''YUKONMART'', THE UNDERSIGNED ASSOCIATION HEREBY AGREES

1. TO FILE, OR CAUSE TO BE FILED UPON YOUR DEMAND, AN APPEARANCE ON BEHALF OF THE OWNERS OF THE SAID VESSEL IN ANY SUIT WHICH YOU MAY FILE IN THE (A) UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA IF JURISDICTION IS OBTAINED OVER THE CONTINENTAL GRAIN COMPANY ALTERNATIVELY, (B) IN THE SOUTHERN DISTRICT OF NEW YORK AND ALSO AGREES TO FILE OR CAUSE TO BE FILED A CLAIM BY OWNERS OF THE YUKONMART IN SAME ACTION AS AFOREMENTIONED IRRESPECTIVE OF HER NOT BEING IN THE JURISDICTION OF THE COURT AT THE TIME, AND WITHOUT RAISING ANY POINT AS TO HER ABSENCE FROM SAID JURISDICTION.
2. IN THE EVENT A FINAL DECREE (AFTER APPEAL, IF ANY), BE ENTERED IN FAVOR OF THE CLAIMANT AGAINST THE ''YUKONMART'' AND SUCH DECREE IS NOT PAID AND SATISFIED BY OWNERS, THEN THE UNDERSIGNED ASSOCIATION AGREES TO PAY AND SATISFY, UP TO AND NOT EXCEEDING U.S. DOLLARS 2,583,000 OR THE VESSEL'S LIMITATION FUND WHATEVER THAT MAY PROVE TO BE, WHICHEVER IS LESS, THE SAID FINAL DECREE OR ANY LESSER AMOUNT DECREED BY THE COURT OR SETTLED BETWEEN THE PARTIES WITHOUT FINAL DECREE BEING RENDERED.
3. IT IS EXPRESSLY AGREED THAT THE FOREGOING AMOUNT WILL BE REDUCED ACCORDINGLY AS SOON AS CLAIMANTS' ALLEGED DAMAGES HAVE BEEN ESTABLISHED.

*Addendum A*

THIS LETTER IS WRITTEN ENTIRELY WITHOUT PREJUDICE AS TO ANY RIGHTS OR DEFENSES WHICH THE SAID VESSEL OR SAID OWNERS OR THE ASSOCIATION MAY HAVE UNDER THE COVERING BILLS OF LADING AND/OR CHARTER PARTIES AND/OR STATUTES OR POLICIES IN EFFECT, NONE OF WHICH IS TO BE REGARDED AS WAIVED.

IT IS UNDERSTOOD AND AGREED THAT THE SIGNING OF THIS LETTER BY ROBERT L. MAHAR SHALL NOT BE CONSTRUED AS BINDING HIM PERSONALLY NOR BINDING THE FIRM OF FREEHILL, HOGAN AND MAHAR BUT IS TO BE BINDING UPON ONLY THE WEST OF ENGLAND SHIP OWNERS MUTUAL PROTECTION AND INDEMNITY ASSOCIATION (LUXEMBOURG).

VERY TRULY YOURS,

WEST OF ENGLAND SHIP
OWNERS MUTUAL PROTECTION
AND INDEMNITY ASSOCIATION (LUXEMBOURG)

BY

ROBERT L. MAHAR
AS ATTORNEY IN FACT FOR THE ABOVE
LIMITED PURPOSES ONLY AS PER
TELEX AUTHORITY RECEIVED UNDER
DATE OF OCTOBER 22, 1974 FROM
THE WEST OF ENGLAND SHIP OWNERS
MUTUAL INSURANCE ASSOCIATION
(LONDON) LIMITED AS MANAGERS.

UNQUOTE

WE ALSO CONFIRM EPCHAP'S AGREEMENT TO IMMEDIATELY ARRANGE RELEASE OF YUKONMART UPON MR. ELLIS'S NOTIFICATION THAT FORE-GOING LETTER IS IN HAND. PLEASE ACKNOWLEDGE RECEIPT.

REGARDS MARTOWSKI

*Addendum A*

CABLE: ATNAVCO NEW YORK

TEL: (212) 867-9490

**ATLAS NAVIGATION CORP.**
201 EAST 44TH STREET
NEW YORK, N. Y. 10017

October 30, 1974

-INVOICE NO. 10-01-74-

Continental Grain Company,
c/o Chartering, Inc.
110 Wall Street
New York, New York

RE: "YUKONMART" - C/P dated July 5, 1974.

FOR: Demurrage incurred while vessel waiting to discharge cargo of corn at Callao, Peru.

Discharge terms per Charter Party: Cargo to be discharged @ the average rate of 2,000 L/T per WWD of 24 consecutive hours SHEX (Saturday Full Working Day @ Callao).

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Allowable Laytime for Discharge:-

26,250 L/T Cargo Lifted. (B/L Weight)

26,250 L/T ÷ 2,000 L/T - / Diem = 13.12500 d =

13 d 03 h 00 m : Allowable laytime.

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|---|---|---|---|---|
| VESSEL ARRIVED: | 17 | Sept. 1974 | 1804 h | TU |
| PRATIQUE GRANTED: | 17 | Sept. 1974 | 1810 h | TU |
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| NOR ACCEPTED: | 17 | Sept. 1974 | 1810 h | TU |
| Vsl COMMENCED DISCHARGING: | 02 | Oct. 1974 | 2145 h | W |
| VSL COMPLETED DISCHARGING: | 21 | Oct. 1974 | 1425 h | M |
| EMBARGO LIFTED: | 24 | Oct. 1974 | 1815 h | F |

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Laytime commences: 19 September 1974 @ 0700 h TH.

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| 21 | Sept. | 1974 | 0000 - 2400 | SA | 01 | - | - |
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| 28 | Sept. | 1974 | 0000 - 2400 | SA | 01 | - | - |
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| 09 | Oct. | 1974 | 0000 - 2400 | W | 01 | - | - |
| 10 | Oct. | 1974 | 0000 - 2400 | TH | 01 | - | - |
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| 12 | Oct. | 1974 | 0000 - 2400 | SA | | - | - |
| 13 | Oct. | 1974 | 0000 - 2400 | SU | 01 | - | - |
| 14 | Oct. | 1974 | 0000 - 2400 | M | 01 | - | - |
| 15 | Oct. | 1974 | 0000 - 2400 | TU | 01 | - | - |
| 16 | Oct. | 1974 | 0000 - 2400 | W | 01 | - | - |
| 17 | Oct. | 1974 | 0000 - 2400 | TH | 01 | - | - |
| 18 | Oct. | 1974 | 0000 - 2400 | F | 01 | - | - |

-continued-

*Addendum A*

ATLAS NAVIGATION CORP.



October 30, 1974

INVOICE NO. 10-01-74

| | | | | | D | H | M |
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| 19 | Oct. | 1974 | 0000 - 2400 | SA | 01 | - | - |
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| 22 | Oct. | 1974 | 0000 - 2400 | TU | 01 | - | - |
| 23 | Oct. | 1974 | 0000 - 2400 | W | 01 | - | - |
| 24 | Oct. | 1974 | 0000 - 1815 | TH | - | 18 | 15 |
| | | | VESSEL ON DEMURRAGE: | | 19 D | 10 H | 35 M |

19 D 10 H 35 M = 19.44097 D x (U.S.) $8,000/diem = $155,527.76

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Please make payment to:-

BREDA SHIPPING CO., LTD.

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c/c/ Chartering, Inc.,
110 Wall Street
New York, New York.

Due and timely service of Two copies
of the within BRIEF is hereby
admitted this 4th day of MAY 1977

RECEIVED
MAY 1977
DONOVAN, MALOOF
WALSH & KENNEDY

Attorneys for APPELLANTS